

Coming back from a four-day trip. Had press conference yesterday to announce coalition. Went really well, excellent posters, Joseph did great, Lupita not talking to me. Huge breakthrough this week: the government sued Chevron in U.S. court, and the development hit the papers in Ecuador and Reuters. Lehane is working the WSJ. Bonifaz case dismissed yesterday. Discussion with Pablo and Luis at lunch about settlement possibility, and path to get there.

Three potential breakthrough pieces of news: settlement talk with Raul, gov accuses Chevron of fraud, and Bonifaz SF case dismissed. It is like the fog lifted and blue sky appears: I see a path to the end for the first time. Not that it will be easy to get there. But at least one can see how to get there. That is a first.

What Robinson told me about the Bormans showing those films, and then 20 Cofanes were baptized. Pablo shows me that some TPH levels were about 5,000 in the clean-up as reported by Texaco.

Legal taller – Pablo go teary-eyed when I came down hard about changing the structure of how we approach the case, instead of just working within the structure. Luis and Aaron were there – APV on vacation, Julio with broken leg. Our legal team seems to be getting smaller by the day. The upshot is we still have the same old problems. It appears the corruption charges against Yanez which came out in El Comercio two weeks ago have embroiled the entire court in a patricidal war. Yanez then filed a queja against Guerra, who had filed a queja against Novillo. According to Pablo, Guerra wants control of our case. He also said there is the feeling in the court that we are behind the complaints against Yanez and Novillo, which we are not, even though we have much to complain about, which is sort of ironic. I asked if this theory in the court hurt us or helped us, and both Pablo and Luis said it helped us. At which pt I launched into my familiar lecture about how the only way the court will respect us is if they fear us – and that the only way they will fear us is if they think we have come control over their careers, their jobs, their reputations – that is to say, their ability to earn a livelihood. Goes back to what Mateo said months ago, to my Peru analogy about that petty thief being burned at the stake. I have never felt Pablo understood this fundamental issue, even though he is a committed leftist – it's like he really believes in the law as a vehicle for social change. But it also has to do with something he can't control, but I suspect that he realizes privately – his lowly social status in a country where privilege is ingrained and totally tied to power. When Pablo walks into the court, he is one of them, no different from the secretaries and clerks – a punk kid from the Amazon, with nothing to back him up, nothing to fear, no strings to pull. When Callejas walks into the court, he has 500 years of history behind him – plus the awesome power of an international company, unlimited resources, full-page ads, a villa on a military base, and utter arrogance that comes from knowing you are the it man. So when Pablo says he talks to Guerra, or any of the other judges, I just don't know what happens behind those doors. I know he does his best, and what he says is likely excellent. But they don't fear him, and without fear, we are going to lose no matter how strong the evidence. In fact, because there is so little fear of us, Texaco is in the game in a big way despite the fact they are losing overwhelmingly. Luis Alberto was

supposed to come work for us, and help Pablo in Lago by monitoring the court. After accepting the job, he turned it down – to take a job as a teacher, so he could save money to get an LLM in the United States. I don't understand the thinking – if he worked for us, he could more easily get a beca or something. But it amazes me how few Ecuadorian lawyers do not rush to work on this case.

I feel again like the vise we were in in my last trip still exists, despite the flicker of hope when the El Comercio article about Yanez came out. Our issues first and foremost are whether the judge will accept the renuncia of the inspections. If this happens – and Pablo thinks it will, but I and Aaron think he is overoptimistic – then we have to face the prospect of more of the wasteful, time-consuming, and expensive inspections. If it doesn't happen, then we are in all-out war with the judge to get him removed. Hanging in the back is Luis Munoz, who is now a candidate and according to APV as powerful and corrupt as they come. Texaco now realizes their best defense is to ask for as many inspections as possible. In a separate case in the same court, the OCP just asked for 91, while the plaintiffs asked for two. The amicus brief we submitted addresses precisely this issue.

Assuming the renuncia is granted, we want to do four more inspections; Texaco has ten. Ideally, we will march right into the inspections after the judicial vacation and finish our four by the end of August – if Joe puts the money in. But there are still other unresolved issues that could kill us. First is the dirimente issue. Pablo is arguing we go along with Yanez and agree to one perito, to get rid of the dirimente issue. But how can we control this perito? This means putting names before the court, but we have no names – Fausto Penafiel is gone, and he never came up with people anyway. Manuel is pretty much AWOL. And there is a very small pool of technical people who are not “contagiado” (in the words of Luis). So the single perito theory sounds good, but it is all in the execution. And you just know that Texaco will have a slew of available candidates, and will probably pay them on the side to boot, so they can be controlled. So I suggested we stick with two peritos, get rid of the dirimientes because there is no divergence, and draw a line in the sand to pressure the court. I always liked two peritos, because at least we could control our results 100% and then argue the shit out of it at the end. Having one perito concentrates way too much power in one person appointed by the judge, and given Ecuadorian politics, I don't see any one perito really coming through honestly about what is happening. But Pablo never wants to draw a line in the sand, and that is where he got teary. It was probably the stress and loneliness; perhaps his feeling that he did not have my support, in general. Perhaps my arrogant statement that if we cannot resolve these issues, Joe will not put more money in – a true statement, but a veiled threat to a friend, made inelegantly, and no doubt taken by him as a slap in the face. So, I mellowed and agreed at least for the time being for us to pursue the one perito solution, and try to shape it to our favor. This seems implausible with Yanez as judge, but we might just have to eat some problems to finish the last few inspections. As long as he takes out samples where we want them, and doesn't opine on larger issues, we should be fine. But I am not comfortable with this.

So then the issue becomes, should we file the complaint against Yanez with the judicatura, which we were supposed to do on Monday but we held off because the court situation is so unsettled and we thought Yanez might be forced out anyway. Another issue is we need another lawyer for Pablo while Julio is out – and we need another lawyer anyway, somebody to scour the trial record for Texaco’s admissions – a job that in itself could easily take months. There are no obvious names, but Julio is looking. In Lago, Pablo and Luis said there is no lawyer available not “contagiado” by the corrupt system. Just to hire a lawyer is becoming virtually impossible. Then there are the 8 exhortos which Pablo and APV painstakingly prepared and had translated – shit Alberto asked for in the first week of the trial to come from the U.S., but most of which we probably don’t need anymore given how events have transpired. This could take months of additional work – the exhortos have to be certified by the Cancilleria in Ecuador and then sent to the U.S. courts where certified info is sought directly from the judge or the clerk. Alberto also asked for a deposition of Dan King, for what reason I have no clue. And someone in the U.S. would likely have to work extensive hours following up, because the information has to be returned to Ecuador within 90 days. Plus the cost of a deposition. Sure, Joe is really going to be into this. I asked Pablo if we could withdraw the exhortos, and he seemed taken aback. Of course we can, and maybe we will. I need to look at them before we march down this path of further resource suck. But neither Pablo nor APV even ask the question if we need this stuff – since it was asked, they just automatically sprung into action. It seems so much of their litigation philosophy is based on: since this is the way it has always happened, this is the way it must happen in this case as well. I can’t seem to move them off of this.

I went off on Lupita Sunday night. Once again, she is getting in the way by trying too hard. She sent out an aviso Sunday night that said Texaco is accusing the state of fraud, rather than the other way around (actually, the way she wrote it, it could be read both ways). When Pablo pointed it out, she got all arrogant and acted like it was not a problem. She has an incredible level of defensiveness when criticized. But what really pissed me off was not the error, but that she didn’t run it by me before sending it out even though I was in the next room. Then, she refused to admit she made a mistake. She said me and Pablo were being too technical as lawyers the way we were reading it. This follows a serious, serious mistake last week when in a press release that described what Borja was saying, she put quotes around the headling even though he didn’t actually say those words. I told her and Joseph after that that nothing goes out that Lupita writes or edits without me looking at it first. So I started yelling at her, and Kush was there, and the reality is that I mishandled it and it made me look bad. She started crying. This also follows me going off on her Friday morning (my first morning) when, to assess our status with the Monday press conference, I asked her for the press list and she didn’t have one. She just had a bunch of loose sheets of names and numbers. And, she couldn’t produce the email list. The whole thing was not a system – it was Lupita’s way. I had this of both her and Joseph repeatedly. Frankly, I can’t wait for her to leave. She is using our work to fill a gaping whole in her life. While this produces enormous dedication, with positive results, the spillover effect and problems makes it really difficult to deal

with. And where is Joseph? Not asserting himself. I apologize to Kush, sent Lupita an email apologizing, but she did not respond.

About three weeks ago (at the end of June), just when Joe was ready to pull out, I sent to Philadelphia and presented him a plan after having sent him the honesty memo. It was a holding plan, but in reality we have not been in a holding pattern. Joe was pretty cool about it, but I basically said we would be crazy to just close shop given the investment to this point, when so many things (like the Winston case) could move in our favor in the coming weeks. Joe agreed, but now Carol is gone and it is unclear how things are going to go administratively. Amazingly, I called Raul Herrera the week after the 4th and caught him in the Miami airport on his way to Spain and Morocco for a family vacation. Raul is a real family man, and he is genuinely happy for me that I have become a father. Anyway, he told me some shocking news: the Jones Day lawyer approached him about a settlement. The number \$150m came up. I insisted he not leave us behind. He was real cool, said at this point his client was not interested in a settlement, but we talked about a three-way. I always felt Raul was the perfect person to broker a three-party agreement. But this will take a lot of work. We talked about a \$1b figure over time. I called Joe immediately, and we are planning to go to D.C. to meet Raul sometime in August.

June 24, 2006

Three day trip. Sent Joe a critical memo Friday of last week on prospects for case, as he had told me he was loaning his law firm money and situation was really grave. This is first time I felt this from him frontally since the case began, but I knew it had to be coming at some point – I knew we were testing him limits, but I never knew how close we were coming. He posed the question of whether we would really get a recovery, and he said he thought it was no greater than a 10% to 20% chance. I thought that was low, but not unrealistic. After hearing that, I realized he was thinking seriously that the case might have to be abandoned. He said he was loaning his law firm money personally to meet payroll, given that several major fees they were expecting had yet to come in, including the one on the Marcos case. So I wrote the long, interesting memo laying out four possible scenarios (see memo). The reality is we are going to put the case in deep freeze legally for two months until the situation clarifies itself. That said, the hard economic reality has forced a rethinking of the strategy. I presented the entire new strategy to the team yesterday, and everybody bought in. I truly feel this is the best move both because of economic necessity (we have no choice) and practical reality. We need to stop

DONZ00036274-82

Levine. Meeting raul h; SRD attending inspection

June 24, 2006

Three day trip. Sent Joe a critical memo Friday of last week on prospects for case, as he had told me he was loaning his law firm money and situation was really grave. This is first time I felt this from him frontally since the case began, but I knew it had to be coming at some point – I knew we were testing him limits, but I never knew how close we were coming. He posed the question of whether we would really get a recovery, and he said he thought it was no greater than a 10% to 20% chance. I thought that was low, but not unrealistic. After hearing that, I realized he was thinking seriously that the case might have to be abandoned. He said he was loaning his law firm money personally to meet payroll, given that several major fees they were expecting had yet to come in, including the one on the Marcos case. So I wrote the long, interesting memo laying out four possible scenarios (see memo). The reality is we are going to put the case in deep freeze legally for two months until the situation clarifies itself. That said, the hard economic reality has forced a rethinking of the strategy. I presented the entire new strategy to the team yesterday, and everybody bought in. I truly feel this is the best move both because of economic necessity (we have no choice) and practical reality. We need to stop flying steady, and try to nosedive to the end as quickly as possible. Otherwise, we risk becoming extras in what is fact becoming a circus act.

The Winston lawyers were in town all week – Eric, Neal, Manny and Tomas. What an awesome group. This has worked out better, in a faster way, than I ever could have imagined and I am very proud of our team in making it happen. They filed the fraud defense this week, which is going to completely shift the dynamic of both litigations if it plays out how we have planned. The next battles are going to be Chevron's motion for a protective order, and their motion to deny the granting of the motion for leave to amend the complaint. Chevron realizes the cakewalk is not going to happen, and that their aggressive litigation has forced the government to come completely into our corner. I wonder, however, if the Attorney General even realizes what Winston is doing in his name. This is a major, major move by the government for the first time in the litigation.

Meeting with crème de la crème of leaders of social groups on Thursday night. Now have plan to use down time to activate case.

Bonifaz affidavit in San Francisco case, and preparation of Bar complaint.

Talk to Atossa about going forward.

Laying off Fausto, etc.

June 3, 2006

Riding home to Miami. Two straight trips without press. The last night, Maria de la Cruz said I did not seem tired like I usually do at the end of my trips. The reason is I felt really jazzed at the end of the day because I finally feel we have a competent team in every position – at least we did this week. Having Ann and Mark, with Aaron and Daria, with support from Alejandro and Julio, makes me realize what could be, and what could have been had we had this support from the beginning. The office was a beehive of activity, people meeting in the kitchen, in every available space; we had 15 people working in the office yesterday. Ann's story about case in Denver scared me – all expert witness testimony got tossed out on Daubert grounds. She said you have to have great lawyering and really tight science to win these cases, and of course I am worried we have neither. We have materials together for the WS meeting on Tuesday – they look real good. I just have to get the presentation together on Sunday and Monday, and pull it off at the highest level. I am feeling like I need more cases; I don't want this one case to become my life.

Lupita told us yesterday she was leaving at the end of the month to move back to Colombia. Boy, did she turn out to be a winner.

Texaco files papers asking for two inspections before the judicial vacancia – our inspections, not their inspections. The nerve. Taking a totally hard line. Luis agreed about a significant mobilization the last week of June. That is going to be a lot of work. The amount of work is killing us. We still haven't responded to T's attack on E-tech from April 25. Supposed to meet with Borja, the AG, last night but it got canceled due to traffic.

June 2, 2006

Intense day yesterday. Splitting head ache, dehydrated, did not sleep well. Getting Winston papers together when Pablo gave us a shock which again reminded me nothing in this case goes as planned: Callejas changed mind and rejected our agreement for the next seven inspections, because his jefes in the USA are sticking to their hard line, trying to force us to do all of our inspections, and they want the next group of inspections to be 8:1. I tried calling the judge by cell phone, and he did not know who I was, and he lapsed into canards about my office is always open, I want to be fair, etc. The call was useless, and reminded how weak the judge was, and how he lacks self-confidence, a personal and institutional characteristic that is killing us and helping Texaco. Our 2-year plan to finish the case requires a determined judge willing to make decisions, and that is not this guy. This led to an intense conflict

with Luis and Pablo, because it is become even more clear this case has turned them into petty bureaucrats rather than political leaders. Pablo is a lawyer's lawyer, and Luis is exhausted and inherently dark about mobilizing people, and the combination has led to a situation where we have de-mobilized the base communities. I told them we need a massive protest on the court, and only after that should we talk to the judge about what he needs to do. The judge needs to fear us for this to move how it needs to move, and right now there is no fear, no price to pay for not making these key decisions. Luis resisted: "What are we going to protest about?" Oh, maybe the fact we are going to lose the case unless it ends soon? I mean, get off your ass. He just sits up in the office and does nothing. I really think he should go back down to the jungle and live there as an organizer. But if he does that, there will be nobody to run the office. Our lack of leadership and the thinness of our bench is just killing us by limiting our options. I also had an intense argument with Alejandro, blasting him for thinking too much like a lawyer. I argued intensely with him about the issue of the protest and having an American appted as the perito for the peritaje global. Both he and Pablo think within the four walls of lawyering, rather than see lawyering as part of a larger campaign to win justice that requires action in and out of the court.

Had lunch with Fernando Reyes. We ended the arrangement, said it might pick up later. He is perfect example of what is right and wrong with Ecuador technical people. So weak, so unwilling to out front. But had dinner with Ann and u realize why: there is no market for people willing to do work that holds oil companies accountable. You simply can't make a living doing it. It goes against the flow of the entire economy. Which gets back to my point that we need a foreigner as the expert for the global. No Ec is going to come through and hold them accountable for billions – it is just not going to happen. Not even the most progressive, reliable people in the country who work in any of the related fields is going to do it. Without that insurance, I just don't see how we can go forward with the global peritaje.

The work ethic driving me nuts: Manual never showed up to work with E-tech like he had promised; Fausto bailed on our lunch, without telling me; Luis Villacreces never showed up as promised. Olga had never showed up the day before because of her husband's doctors appt, plus she had an accident; and today, Alejandro has to go to a funeral. There is no management in the office, exacerbated by the constant late payments that probably give people.

As an aside, Daria told me the female interns took offense at my comment on Wed night (when I met with them) suggesting they might want to establish a personal relationship with the judge and lobby him, and that this could help the case. Don't know what this means, but it is clear these people are real young. That was probably a little too much for them to handle. My guess it had more to do with their fear of the level of responsibility it implies.

CB sent email to Alfredo saying because of 2001 Lago court decision we are losing the case. APV sent email showing him SC case (Torres case), saying he shouldn't opine about the law when he doesn't know all of the cases. CB sent email back

saying we should send it to Herrera, which of course we already did last week during our 10-hr meeting.

May 31, 2006

Two big events: last week, went to D.C. to meet with the WS lawyers. Like opening the floodgates with Neil and Eric Stocum. Raul was in and out, but he was called out. Biggest issue is whether they will have budget to fund a significant shift in strategy: amend complaint to put fraud issue in, depose Reis Veiga and go to the highest levels of the company, and force them to squeal, force them to ask for a stay. But everything is on such flimsy ground, and I am sure neither Neil nor Eric really understand the things that could stop them from filling their promise as the good litigators they are: the fact Borja has to sign off on it, that Raul is not necessarily the strongest arm-twister to get him to see what has to be done, and the fact Borja himself is so weak now as a result of this role in the Oxy debacle (he first said the contract was illegal, and when he wouldn't keep it up, he became the target of protests).

Yesterday we had a 5-hour taller and it was extremely intense and frustrating. Went through options on Global Peritaje – had Plans A through E, and I realized how difficult this aspect of the case is going to be. Bottom line problem is we will have no control over the perito, who will be appointed by the judge. Pablo and our legal team keep insisting that the solution is for the judge to appoint someone who is favorable to us, but I don't trust this approach given our experience so far. All T has to do is ask for a bunch of sampling, and they will end up paying the person more. Moreover, they could stretch it out tremendously. I feel like the harder we work, the more the horizon recedes. And our legal team is stuck in such a box. Aaron noticed it too. Example is the idea of appointing a foreigner as a perito for the global – this was rejected out of hand by Alejandro and the team. I finally raised by voice and said simply: "Tell me how to do something instead of always telling me it can't be done." I really wonder whether I can tell Joe in good faith this thing is going to turn out all right. We are winning on the proof, but we are losing the larger war because of time. The other thing I noticed is that we have not put in proof for the other main categories of damages: degraded habitat, cultural damages. Why had nobody thought of this? Finally, I made a pretty lengthy speech about the need for a political strategy. We had been asleep on this for 12 months, for a lot of very explainable reasons – mostly exhaustion, lack of resources, the dark nature of Luis, lack of leadership, lack of people to organize. This has to change. We can have the best proof in the world, and if we don't have a political plan we will surely lose. On the other hand, we can mediocre proof and a good political plan and stand a good chance of winning.

The sheer amt of work is overwhelming and there are so many moving pieces I don't know if we can hold it together. Our legal team being on the same page; Alberto Wray sticking with us, when he pays little attention to what we are doing; the WS legal team; Borja, who will be out of office soon; and Joe feeling like he still wants in. Money is a glue that can hold all of these disparate elements together, and we don't have much of that. A corporate hierarchy is another glue, and we don't have that. Yet Texaco has both, and they are able to deftly coordinate their legal strategies here and there. I think it is a miracle how much we have accomplished with so little, but in the end of the day that means nothing if we don't win. Really, what does it get you to claw your way to the finals of a sporting event and not win, knowing your loss will essentially doom the franchise? You are fighting constantly to not let that fire burn out. And then I see my life being consumed by this, and I see no exit anytime soon. You can't do this part-time, and the reality is I should be spending more time here, not less, yet I have a son coming and a marriage to build and enjoy. So I am feeling like my options are shrinking, not expanding. Which is why I can't fault Daria and Aaron for wanting to go to Egypt as opposed to continuing here.

May 13, 2006

This week was first time in many months that there was no inspections, and nothing going on with the press. We had a two-day workshop Monday and Tuesday, and we were able to really reflect on the case and get out of the drug-addicting fast action of the actual trial and actually think about where this thing is heading, or as the case may be, not heading.

One thing that is totally clear now is the absence of CB. We are now on our own; our favorite whipping boy is gone, and while he can still cause problems, the reality is that it is now our responsibility and ours alone – both to finish the case, and to clean up the mess CB left behind for both us and the Ec government. What bothers is the failure of LY and Ecs to take responsibility, to try to close out the case, to see the issues with more clarity and therefore to see the obvious course of action as necessary. They still depend on the gringos, a dependency ingrained for centuries, fostered and exploited by CB, who took on the caudillo role and often exercised it with a combination of oppression, charisma, charm, and manipulation that produced the desired effect in the short term but in the end has led us to edge of disaster. That is why Joe was scared to ditch CB: he always thought he possessed a sorcerer's wand, the person who could fix things in Ecuador with a phone call from his Mass farmhouse. We are now paying a heavy price for the deference given to CB.

The Sand issue and the crappy WS lawyering: The first hurdle we had to deal with was the fiasco of lawyering at Winston & Strawn. In their defense, they parachuted in during Year 13 and just never picked up on the tenor of the litigation, the need to present a worldview of a dishonest corporation trying to avoid its legal and ethical obligations to some of the world's most vulnerable peoples. Instead, they basically accepted Chevron's worldview: that they were the responsible party, they brought benefits to Ecuador, they cleaned up responsibly, and now they are getting screwed by a Banana Republic country and a greedy band of plaintiff's lawyers and their campesino puppets (Aaron and Daria's

very smart characterization.) WS accepted without counterargument two of Chevron's key contentions: that the contract was valid, and that the cleanup was adequate. They limited their argument to the single issue of whether the release applied to claims that could be brought by third parties – an argument that provides an extremely narrow reed on which to rest the entire proposition when there was so much more to work with. I asked Raul for a phone call, saying we had some concerns and suggestions, even though I was sickened by the whole thing. I requested he get his other lawyers on it, and on Thursday we had the call – on his end, Neil Mitchell and Karen Manley, two WS lawyers on their team who I have been dying to contact but out of deference to Raul steered clear of; and on our end, Joe and myself with Alejandro, Julio, Aaron and Daria listening in. Before the call I spent another 3 hrs reviewing their papers, this time reading the affidavits, and I realized even more why Sand ruled how he did: Chevron won the battle of the affidavits interpreting what Ecuadorian law means, concluding amazingly we had no legal basis whatsoever to sue Chevron in Ecuador for general environmental damages. They wrote the affidavit simply – 3 pages, and got four prominent lawyers to sign it. In contrast, the Winston affidavits from Crespo and the two other clowns (who charged \$20,000 to write it) were confusing, meandering, long, and off point; they never clearly addressed the fundamental issue that Chevron was raising, which is whether we had a legal basis to sue in light of the contract (shocking that would even be an issue at this point, and testament to Chevron's clever lawyering and the government's crappy defenses up to this point). That is, the Chevron affidavits were exactly what a US judge would need to make sense of a complex foreign law issue, while the Winston affidavits were exactly what he would need to never figure it out. Before the call, I was stewing. I could not believe that they had been so arrogant as to have submitted those papers without running them by us first.

On the call itself, I pushed several issues as diplomatically as I could – for example, I brought up the issue of the affidavits, the fact they had not raised the fraud issue, and the fact they had accepted Chevron's worldview in the statement of facts. Raul was silent on the call; this was a condemnation of his lawyering, and it might have embarrassed him in front of his colleagues, whom I suspect might have been frustrated with him themselves. Neil could not have been more gracious, and Karen did not speak. The end result is that they asked for a 2-day meeting, which we skedded two weeks out. Although AD and the rest of the team seemed relieved at lunch, deep down I know getting a meeting with the WS lawyers will do nothing to change the dynamic in the short term with Sand, even if the WS lawyers are open to our suggestions. The reality is that is way too late for them to change the worldview before Sand, and to raise the fraud issue, which likely cannot be put on the table at this point since it has not been raised. Somebody needs to get the fact that 30,000 human beings are dying before Sand. If u read the papers, it is as if there are no people involved, just legal issues. That leaves only one option – that we file a motion to intervene and we raise the issue ourselves, and thereby change the dynamic of the litigation completely in the short term. Even arguing it and getting it denied could change the dynamic significantly in our favor. The more I think about it, the more I see it as a necessary option although I know Joe at this point is not on board. Way too much power over the lives of these rainforest peoples is now concentrated in the hands of one American judge who appears to have no clue about the context and history of the litigation. The next day I called Raul – I know he feels betrayed by me, and I feel bad

about it, because he is a great guy and we get along famously. But he is a transactional lawyer, not a litigator, and I think much of this type of case is new to him. These is not a commercial dispute between large companies; this is a political, historic case for environmental damages that Chevron and probably the entire energy industry has a vested interest in crushing completely and then erasing any memory of anything good happening out of this that might linger

Maybe I could have been more gentle, but if I was, I don't think they would have asked for a two-day meeting or been awakened out of their slumber. The discomfort Raul must feel after that call is a necessary byproduct to break the logjam that prevented open communication between us and the gov's lawyers – something that Raul apparently believed he needed to limit to politically protect Borja, who has higher ambitions and who is famous for not wanting to take responsibility for his actions (see Oxy contract issue as Exhibit One, where he initially said the contract was illegal, then he said the President had to decide, who then said PetroEcuador had to decide, who then said the Minister of Energy has to decide, and now he is subject to ridicule by many sectors of the country). I fear that Raul, who prides himself as a savvy political operator, is just the latest American to get eaten alive by the carnival thicket of Ecuadorian politics. But what does he care? He wants to win, but in his business he knows you win some and you lose some. The good thing is, u always get paid. He wants to win because if you stop winning nobody will hire you, but the consequences of an adverse decision for Raul and the WS lawyers are negligible compared to what they are for our clients and our legal team.

Back to the trial, trying to keep it moving: So while we were dealing with the larger issue before Sand that threatens to destroy everything we have fought for over the last several years, we still need to deal with the details of the ongoing case and keep that moving as much as possible toward a resolution – both because this is till the case, and if we don't move it forward, then any positive dynamic that could be created on the Sand litigation will be squandered. This is another area where I feel like we are hitting new and vicious obstacles that threaten to sink the enterprise. The big issue at the taller, in Juan Aulestia's beautiful house, was the length of the proceeding as come upon our three-year anniversary of filing the action. It quickly became apparent, as we discussed tactical details, that people are not looking at how Texaco is winning the big war even as we prevail in various skirmishes. I broke down how long it would take to finish the case if all the dirimiente reports and responses are done, and we estimated that it would take about six years beyond where we are now. This seemed to take everybody by surprise; nobody had wanted to think about this, people just charge ahead with a worldview no longer than a few months out, without thinking thru the consequences of decisions – for example, Alberto's disastrous decision to ask for so many inspections, and then accept the appointment of five dirimientes who proceeded to rip us off and not to any work, and who are now holding up the case. PF said Yanez had 14 completed inspections reports to send to the dirimientes. It has become clear to me that the key issue here is that we have to kill the idea that the folly of the dirimientes should continue. The reality is that these guys, like the judges, are completely out of their depth and for economic reasons will not express an opinion, as both sides are sharing their cost and they don't want to anger either side. Luis Vallacreces said Echeverria told him that directly; he also told me Echeverria

had a hand in the disastrous Sacha 53 dirimente report. Thus, any hope I had that he was a different breed of expert has vanished. The other thing that tells the dirimentes are worthless is that G and F have been unable to state a real opinion and they are supposedly on our side! Worse, PF tells me that even if Yanez dispenses with the dirimente reports, theoretically saving us time, the next judge could then order them anyway, extending the case even longer. Why would Yanez order the reports when he and everyone else knows they are useless? The dangerous combination of not wanting to make a decision, with the fact they this is an American case and who cares, people can just keep making money.

Big remaining issue: have inspections or wait and conserve resources. The money is issue is killing us. Debts at 114,000, people waiting to get paid, they have families, not a good dynamic – moral in the office seems low, and that was confirmed by Lupita. Have to force the issue with Joe, I think I am failing here. CB always said u had to make it appear that u had no money, or the people in Ecuador would eat u alive. He was and is right – look at Alberto and Monica as Exhibit A. We have to keep going, keep pushing, we have to believe we are going to win, we have to create the energy that we are going to win, otherwise this entire thing will wither and die.

Other facts on this trip: Juan Aulestia blasting me and Luis for not tying the case to the larger national debate on oil, as in the Oxy matter; preparing CB complaint to Mass bar association, and the weird feelings it generates: conversation with E-tech yesterday about trip planned for late May, and feeling like they too are overwhelmed with the combination of annexes and field work they have to do; problems with HAVOC lab, the fact that the samples match exactly and that they haven't produced quality and control documents; Fausto P's lack of leadership and administration; Edison Camino case against me is dismissed – it was fucked up that the judge would not let us press a defense, and it was fucked up that she dismissed it when he arguably had a claim against me. I believe we have, via intimidation, put an end to two lawsuits – the one about the Havoc inspections, and Camino's lawsuit against me.

May 7, 2006

On my way back. Two major events have unfolded in last two weeks: 1) CB filed a second lawsuit in SF, and (2) the utter recklessness, incompetence, and malpractice of CB and Terry Collingsworth have threatened to destroy our case. I have felt sickened this entire week after reading Sand's April 6 order on the conflict of law issue. Basically, our entire case now could be decided by Judge Sand under US law, after Texaco had argued for years that the case should be in Ecuador and heard under EC law. How did this happen? Review CB's utter incompetence. Question as to make out a bar complaint, but that might bring in Skrinick, Joe's friend. Anger at Joe for his enabling of CB for so many years. So clear neither Pablo nor Julio understand the jeopardy we are under – Pablo calling it a "estupidez" that Sand could interpret the 1998 settlement as covering the individual claims of citizens for general environmental remediation. The Winston

lawyers papers were incredibly weak compared to Chevron's; they did not allege several key arguments, like fraud, comity, respect for Rakoff's decision. CB commits malpractice, bails out, then files a suit for the only category of damages that not even Chevron believes are covered by the settlement agreement. He is foul, and this has without doubt ended whatever relationship I had with John, who is on the SF papers and still touts on his website his role in starting this landmark litigation with his father. The whole thing is disgusting. CB's recklessness was always a risk, but we happily took the benefits when we could get them. Now, our time is up and that recklessness threatens to destroy us. That is what he always wanted: once he lost control of the case, once it could no longer serve his ego, he consciously or unconsciously engaged in acts that forcing everybody out of the game. If he couldn't be in it, he tried to make sure nobody could. Whether he succeeds with this incredibly destructive is now on us to some degree, but I even wonder.

✂ The main task I have in coming weeks seems gargantuan: whip our legal case into shape for the stretch run, not knowing if any of this is going to matter anyway. I have that depressing, sinking feeling again that the awesome power we are up against keeps growing more daunting the more we litigate, ~~like we just awaken a deeper monster within the volcano~~, who increases his power to always stay ahead of our own, who always has the power to just crush us with time. I had the same feeling back in early '94, when I went down to take the affidavit from Elias and read Texaco's motions to dismiss on the plane. At the time, our case seemed helpless and hopeless – they either beat you down so bad that by the end the case is worth a fraction of the damages, or you give up. Instructive comparison is a Civil Action, a book I just read on our honeymoon, which had some deep, deep lessons about corporate depravity. Reading that book, seeing what has transpired in recent days, makes me feel naïve for getting involved in this to start with.

Key issue is how to reshape the Sand litigation – motion to intervene, or just work with the Winston boys behind the scenes? It was so clear that Raul is out of his depth – that he has no idea what he is getting into. Their papers were weak, and he never sent them to us for review and comment – I suspect we are not “real” lawyers to them, we are activists, or maybe (like the shareholders) he wanted to keep distance between us because Chevron was trying to claim we had a privity of interests. So in coming weeks need to reshape Sand litigation, influence Winston lawyers, possibly intervene but without the resources, convince Joe to keep putting money in, and win the case – all the while with a new kid on the way.

Houston – shareholder's meeting. Very little press coverage. Enron trial down the street sucked the oxygen out of the local media. The Chronicle totally ignored us. AP wrote one good story, then screwed us. A real oil town. Yet there was something incredibly powerful about E and Rita going into that meeting and speaking. Rita froze up, and then cried afterwards in the bathroom, thinking she had let us down. Leila organized a protest in front of the old Enron building. About ten people showed up, but it was effective: the dudes inside the glass lobby seemed freaked to see it. And then, as if on cue, some beefy Houston cop stopped Atossa and the two Ecs from walking up because she was holding

DONZ00036231-42

their hands, he thought it was some kind of protest. Incredible, because it made for a good picture. How could they be so stupid? Quarles spoke; Shelly spoke; but Julie Gresham came down, but did not speak – she said they were aware of her presence, that it had an effect.

Reis Veiga was at the meeting. I am convinced he has used this to become an internal company hero, defending them against the activists who unfairly victimize the company. This is without doubt their highest profile litigation and human rights problem, but I wonder if that makes it harder or easier to get to the endgame. It just seems the more we litigate, the harder we push, the harder it becomes, and the further away the endgame seems. CBS just did a piece on the Valdez – how 17 years after the spill, the litigation over most of the damages continues and few people have collected. This is going to take forever. As long as RV is alive, I believe there will be no end in sight.

I read our legal docs on the plane – the executive summaries of two reports, the observations, and our arguments are all over the map – no structure at all, are we using TULUS or are we using absolute prohibitions?

April 6, 2006

Yesterday the Guanta inspection finally happened, and again I am getting this creeping feeling that we are not going to make it. There are just too many obstacles – the structure and weakness of the court, the obvious friendly ties of the judge and his staff to the Texaco lawyers, our own disorganization and lack of resources, a lack of fight among the affected communities and indigenous tribes which is a reflection of weakness resulting from the violence Texaco has inflicted on them for so many years.

Our biggest problem right now, and the one that makes me utterly sick to my stomach, is that we are being out-lawyered during the inspections. We are being out-lawyered despite the fact that both Pablo and Julio are incredibly smart, capable, and organized. Why is this happening? They do not have experience in trials. They are young and green, and have no American legal training. The Texaco team, which consisted yesterday of four lawyers, are sharp as tacts and they work every angle all the time: they talk slowly, drag everything out, repeat the same themes constantly (we lack credibility, we are manipulators), make us look like fools. More importantly, they are from the upper class of society. The judge is dark-skinned, trying to struggle in life: he is impressed by them just because of their class background. Pablo and Luis come from the same background as the judge. Psychologically, the judge wants to get away from them and identify with the more powerful, socially important Texaco team. This is what the culture is like during the trial. I feel like we have pushed the other way, especially using me and Alejandro, but the bottom line is they have more social prestige and more power than us and that can be very impressive for a single judge stuck in the jungle. They just out-argue us and my biggest concern is that I don't think Pablo and Julio can do much better than they are doing, given their capacities and lack of understanding of Ecuadorian and international law. The Texas Railroad Commission Law is the example – the corrupt Larea talks about how manipulative we are by using a "railroad" law when it existed to regulate the hydrocarbon industry. Our lawyers have virtually no experience in litigation,

in controlling the context, the moment, or the courtroom – even if the court is outside in the jungle. At the end of the inspection, the T lawyers just tag-teamed for 30 minutes and Julio responded for maybe a total of two minutes. They don't have the capacity.

I find almost all Ecuadorian lawyers live in a box. In the meantime, the T lawyers don't live in a box and they are free to roam however they want through the jungle of argument while we are locked in our cages. A perfect example is that we can't call our best witnesses – Rosa in San Carlos, Toribio, Ermelgildo, y Manuel in Guanta, because they are so supposedly "biased" under Ecuadorian law and their testimony will be invalidated. Under this conception, the very people who know the most can't testify. So fucking what. Let them talk, and explain the basis for their knowledge, just as they would in an American court. Let the media and court here them, and defend the heck out of their credibility and attack T for attacking them. Pablo will hear none of it, and as a result, we only had one witness testify yesterday from the Cofan. Toribio and Ermelgildo were there, but they were not called as witnesses. Go figure.

The racism of the judge and the T lawyers against the Cofan was palpable. As Laura tried to testify, there was a problem with the translation – E translated some questions, but she responded directly to others without waiting for the translation. Pablo did not explain this to the judge, and it was confusing. Further, her testimony was reed-thin and conclusory – T workers raped our woman. OK, any thought of putting a time frame on it? Of providing a basis for her knowledge? Was this oral tradition, or did she witness this? Did she know people who had been raped? What were there names? The whole thing seemed ridiculous, and hearing this, the Judge cut her off and I still don't understand why Pablo did not call other witnesses. Callejas, being the ass that he is, tried to get her testimony delayed until he could get a translator to make sure the translation was accurate. Near the well platform, the military was out in full force – a carro blindado with eight soldiers in it, with heavy weapons and gear. Why this inspection for that display of intimidating force? Why did Chevron have its fat, steak-bellied security chief down from the states for this inspection? Why did RV and Jeff Moore have bodyguards? Do these assholes believe their own lies? And why did our lawyers not say anything about this intimidating military presence?

And why the FUCK was the judge suddenly wearing a nice jungle outfit that you could get at Paragon in New York City? And why was the court secretary flirting with the T bodyguards who were rubbing bug spray on her belly, and why did she tell the judge that Laura's testimony was illegitimate? Ecuador is cheap. A mil base that accepts 3,000/month from a company pulling in 190 b per year proves that corrupt is cheap. An outfit here, a meal there, a little woman here. All bullshit.

The rules of evidence are bullshit too. Both sides can put in documents without showing them to the other party beforehand. They came up yesterday with a document showing that the population of the Cofan had actually grown since the 1950s, using sources from the Internet. Sure. Put it into evidence, lie some more, none of this stuff really matters – it is all teatro, as I have been saying for some time now, all a vehicle to get the press down to the region and cover this atrocity.

LY and I had words last night at Saute when he tried to rationalize the carro blindado by saying there are problems at the border with Columbia, which is why it was there. Total bullshit. He felt guilty for not saying anything about, for Pablo not even raising the issue, because LY is sometimes beaten down, as he was yesterday at the inspection when he just hung around the well platform and never followed the judge into the jungle.

The vision for concluding the case is clear: finish the inspections now, finish the GP, and focus on the politics.

March 11, 2006 – I think this was first trip I was so busy I did not have time to keep up with the diary. On AA flight to Miami, meeting Laura and her family tonite. The week surpassed all expectations – Monday two press conferences, Tuesday down to the jungle to reinforce the judge to do the inspection, Wed the inspection, Thursday the Jorge Ortiz interview, and Friday the Andres Carrion interview. We had journalists calling us – that has not happened in a long time. The week was planned and executed perfectly.

Just before SC inspection. San Carlos inspection – sharing room in hotel with APV, meeting nite before to go over notes, gringos upstairs and Ecuadorians downstairs. Woke up with phone call from Luis that a state of emergency had been declared – went in shower and just could not believe it. I was again ready for it not to happen. First instinct was that this was another scam by T, only with tracks better covered. But this was also the strike referred to by G and F the previous week. I just couldn't keep up with monitoring all the calls for a national strike. Called Pablo and told him to go to judge's house and drag him to the inspection – roadblocks, violence in Lago, etc. Drive there with LY and APV in van while being filmed. In San Carlos, greet Rosa (who always looks awesome), signs over road, articles on side of road. Incident at gate – I was up front yelling with Esperanza, three lawyers inside, four soldiers and big rifles and tear gas canisters, locked gate, people being, yelling and screaming, I called them antipatrioticos, begged them to be patriots, had head exchange with Pablo and Alejandro to come to other side of gate, Pablo seemed totally intent on doing inspection no matter what, floated idea of a delegation, then just media, we rejected it, our lawyers would not come on other side of fence, critical moment, luckily all got in after judge intervened on our behalf – Yanez comes thru. Thought they were going to use it to provoke a violent incident and blame it on us. Texaco cars were already inside, waved through. 300-500 people were there, schoolkids, etc. lunch after with judge, he hits on Atossa and two Scandanavian woman. Judge got shot 22 times at car, still has bullet holes in it. Also, studying to convert to Islam. His entire story is interesting, want to learn more about him.

Spending a day at these inspections is like sitting a sauna all day, having to think intensively at a high level without interruption, in another language, in a completely conflictive situation. At the end, you feel completely exhausted, sweated out, depleted.

The SC inspection. The actual inspection – excellent choreography by lawyers, but I thought they were weak and not on the offensive enuf. Julio was nervous but good. They let the T lawyers get the last word, talk more, and flat-out lie without calling them on it. They don't understand they are playing to the audience of press and clients, as well as the judge. They tried to minimize the discomfort for the judge, which was entirely

inappropriate, rather than risk discomfiting the judge by taking it to a higher level of conflict. Specific examples: argument about two checks, 77 samples with no hydros, the caramels, no clear understanding of the PE/Tex argument, how to compat the aging of the crude issue, a lack of science, and others on memo we are writing. The E-tech team felt the entire inspection was a show, and was a waste of time. Alberto's initial mistake of asking for 122 inspections without any strategy is just coming back to haunt us so deeply, although we are getting good press and we are using the inspections to build political momentum and get our act together, but the process is just time consuming and ridiculous. Mistake with Bill saying he was working for Frente. Wouldn't object to lawyer giving medical evidence at end. T fancy powers with coliform. Total distortion of truth. This is the Big Lie, but we just argue against specific points without sketching out this larger argument. Very worried because we have little chance to improve (I am going home today) and there will be two more weeks of inspections without any interaction with Pablo. Worried trial has become an end in itself for the clients and our lawyers, without the end being figuring out a way to win the trial.

Texaco on heels in terms of press. Press worked well for us, with example of how the T is such a big bureaucracy that we can take advantage of certain situations. For example, as a result of the state of emergency, they did not send Jeff Moore and Sara McMillen, who were at the military base, to the inspection. They also kept that large woman away. Thus, we had our way with the media and we have hit 15 straight news cycles starting mid-day Monday with our first press conference. Just having the inspection represented a certain victory for us, given the state of emergency and T's preferences. They don't even try to call us to get us to suspend the inspections, like Sylvia did last July, out of deference to certain issues, etc., at that time the death of the sister of Callejas. Relations have just deteriorated too much for that kind of civil, courteous cooperation between lawyers to take place. When waiting for the Tame flight on Tuesday, Callejas called APV a bad word ("little dummy" but get the Spanish word); Jeff Moore walked by without looking up at me, and you could just tell they entire T team was descontrolado – that we had really gotten to them, that the press conference on Monday had just really demoralized them. We have succeeded in taking away a lot of their political space, and they seem to have no press strategy. Perez Pallares is the only person who will speak, but he barely gets out. RV doesn't even come down anymore, so we have neutralized him with all the talk of fraud, etc. Ortiz, segun Carmen, has refused to be their spokesman. Plus, they have nothing left to sell. Their small ad in El Comercio on Monday (about water samples) was just totally ignored – I don't think people even pay attention to those ads anymore. They seem to have played most or all of their cards – even the TLC lobbying effort seems to have been neutralized with the Obama letter. And we still have some key cards we can play: FCPA, more shareholder pressure, the fact their key people don't pay taxes, and ramping up the legal arguments, and the AG filing a civil and penal lawsuit against them. And according to Manuel, Sting is coming on April 15 to attend a hayawacsa ceremony for the Secoya. The forward looking panorama looks good for us.

Two new legal arguments. Figure out two important arguments: first, the sampling and analysis plan we supposedly agreed to and that Alberto signed without authorization has no legal effect, because peritos are independent and the parties cannot agree to limit their independence. Second, the contract between the government and T for remediation is in

si misma illegal, as a criminal cannot contract itself out of a crime. This would be like a young girl getting raped, and the rapist tries to sign a contract with her parents to avoid any liability.

Meet with judge day before SC inspection. The day before (Tuesday), met judge in this office – he said inspection would happen “vida o muerte”. Had concern about provision of code about peritos dirimientes, that the whole thing could be declared a nullity by a higher court – the same issue that Alberto had called an “estupidez” in an email some weeks back when Pablo first raised the issue after overhearing Guerra express concern about it. These judges are really not very bright – it is like a vocational job to them, they deal with resolving disputes at a very basic level, there is little or no intellectual component to the law. He cited a code out of the civil code for his concern. Cite code and explain better. I took advantage of the situation to explain our theory of the case. After, Julio simply did not understand the issue of joint and several liability – how Texaco could possibly be responsible for the pollution caused by PE with its old equipment. The concepts of tort law and joint and several liability are acceptable in Ecuador, but nobody uses them, so judges have no exposure to them. That part of our case is a real uphill battle. But I keep thinking of what Mateo told me – the only way we will win this case is if the judge thinks he will be doused with gasoline and burned if he rules against us. Given the morality or immorality of Ecuador’s justice system, that type of comment did not even shock me. It is part of the rules of the game here. I like the judge – in February, I was sure we had lost the court with the perito demento report. But due to some good strateging and some counter-pressure, the court is now in play, up for grabs, and accessible.

Lunch meeting with judge. This was second meeting with judge – had lunch with him the previous Friday in the Cangrejo Rojo. I love it – this lobbying. I am good at it. But I hate it, hate that it is necessary, hate that it is part of the legal culture, APV hates it – I think it runs counter to any good person. The judge brought a young chick in her mid 20s and thought nothing of it. Pablo later suggested she might have been a T spy. She did not say anything the entire lunch. Luis and APV were there. I gave the judge a one-page memo on the law, and showed him the graphs from SA-53, the site where the peritos had derimido supposedly. We talked about the theory, about the need to let the people in San Carlos speak, about the need to not cancel the inspection, to not have another Guanta.

Embassy meeting – more on judge

Bonifax fired.

Tuesday meeting with judge, Pablo, and lunch.

March 4 – Now I feel like the tide is shifting back our way for several reasons. First, the SC inspection is happening, and there is nothing T can do at this point to stop it. That national paro over Oxy never materialized, at least not on that day. The reason is we both asked for this inspection, whereas at Guanta, only they asked for the inspection. And we have a powerful week – the AW human rights press release on Monday, our own corruption press conference on Monday, the RV boletin on his witness testimony on Tuesday, the inspection Wed, etc. We have called all the press and there seems to be interest, largely because the case has been dormant for so long. I pitched Jorge Ortiz and got traction on the mil contract issue after Lupita said there was no hope and she didn't call him, to which I replied – “You are feeling exactly how T wants you to feel – defeated.” Lupita's energy is increasingly counterproductive – calls during lunch with judge to say I had appt

Flew down all day on Wed (March 1), finished editing Aaron's brilliant FCPA memo and the Ann/Bill thing, and emailed them to Aaron from g'quil. It is finally good to have some competent tech people in the game. First annex presented at the SC inspection.

Feb 22 -- For first time, really started to press the personal safety issue from my perspective. It dawned on me – the threats against the lawyers really threaten the entire legal team, and since I am an integral part of that team, those threats implicate my personal security and I deserve a say in what happens. I had been way too deferential. So I pressed them on the medidas caut, which they still hadn't moved on even though it has been several weeks since the petition was granted. APV, PF, y LY agreed to at least get a cop out front of our office during business hours. I always felt this would give us legitimacy in the eyes of many people – that the great lawsuit against the bad American company was deserving of state protection. It is seen one way in Quito, another way in the Oriente. As Paco says, everybody has to make their own decision.

Slept in my dress shit with memory disk in the pocket.

The Havoc problem continues. Talked to Moreano just before our meeting with GF, and he said two clients had called threatening to pull out. The reality of lab sampling in Ecuador is that if the giant petroleros do not have confidence in the lab, business could dry up and people could be out of work. I asked him pointblank if he is going to continue with us, and oscillated and I think he is definitely searching for a way out. That is why he took advantage of our situation to ask for that 14,000 Camino debt from Camino's idiotic, useless over-sampling. All Ecuadorians think of first is money, not any principles – other than our clients, the humble, honest ones.

Fausto and I met with GF. Talked about national strike on March 8, the day of the much-vaunted San Carlos inspection, over the Oxy theme. Apparently Jose Maria, the AG who I always seem prohibited from meeting (first CB, now Raul have warned me away from him), seems a little more weak in some circles than Raul thinks. Raul talks about how great he is, and he keeps repeating the story of how he stared down these lawyers at a bar association meeting who had complained about his prosecution of a corrupt judge. Well,

GF, who are active in the Oxy campaign, think he is paralyzed between pressures from the US embassy and pressures from the street and he keeps putting off his legal opinion of the matter, which he has been promising for weeks. He is also under attack for nepotism, and Raul acknowledges he is feeling alone. Anyway, GF showed an advance copy of their comments on the dirimientes and it basically calls them to account for not fulfilling their role, without getting into any of the underlying issues. They are meeting with the judge next week, and in a good sign, the judge seems to want them involved. I am scared though, because we told them how much the dementos make when they asked, and it is a lot more than they are making, but of course there is the matter of their bonus. I really like Fernando more and more, but I really like them both. I think G is the political bigshot, while F is more the intellect behind the work. But I don't even know what they really think, and who is to say they couldn't go to Chevron and work out some deal with them. They are meeting with judge next week – I suggested they offer themselves up as the dirimientes, and that they could help the judge throughout the process but only dirimir at the end. Explained our legal attack of the dementos – how we are attacking them for violating the law, and attacking the concept that any perito dirimente is needed.

We thought thru the Camino lawsuit and I realized I am fucked. I am fucked by a guy who already fucked me, robbed my equipment, tried to undermine the case, robbed the Ecuadorian government, and robbed the Ecuadorians who were trying to help the case. And now he is trying to extort me further. Called Jaramillo and he walked me thru it, and I realized I am in real trouble. APV never took the time to explain the risks to me when the case was filed, as he only thought of the procedural aspects. There are two issues: one, was he an employee of mine: and two, if so, do I owe him anything. Well if someone is an employee, under the labor laws, you have to go thru some complicated procedure with the Ministry of Labor before they can be dismissed. Well, I just fired him, and worse, wrote a letter as such to him in May of last year which LY pulled out of the files, which basically proves I regarded him as an employee. That means I will owe him by law wages for three months. Jaramillo said there was little I could do. Will he tell the Chevron team I am worried? So, I am thinking of playing the Camino game – telling him how I will drag him thru the mud via the press, tell the judge how corrupt he is, how he didn't render cuentas, how he asked for kickbacks and commissions, how he asked the court for 300,000 in payments. Or will I be falling into his trap even more? This is a hornet's net, but is Byzantine hornet's nest. You think you solve one problem, yet another one crops up and on and on. I am really even more pissed at Alberto Wray for dumping all this on me. God, he is such an arrogant, self-interested jerk. He should have explained these basics to me and gotten us a lawyer who could handle the administrative end, which LY is doing now.

Talked about firing CB, and timing – need to contact editor of El Comercio, and will do after his conference. Sent human rights boletín to Atossa, she liked it; anti-corruption guy came in, but LY said that commission is known to be corrupt and won't help us. Met with tech team in afternoon, explained this was a communications challenge, not a technical challenge. That our tech work was good, but our communication was bad, while their tech work was bad, and their communication excellent. Read Luis and Jose executive summaries and quote them, how torpe they were.

Planned San Carlos at night... more later.

Feb 21 – Might have been my most intense day yet at trial. Pressures swirling all around of corruption, death threats, etc. Camino's lawsuit is going forward against me on March 9 and I am starting to freak out. This is part of what they want – I am getting paranoid, thinking that everyone who I have a problem with or who is threatening our plan in any way is being paid by Chevron when they may or may not be. Talked to Ramiro Bonillo about explosive film yesterday, then I realized our phones are probably tapped so now Chevron knows about it. They will call him and just pay him 1,000 and he will give them the film, which they will promptly destroy just like they have other evidence. If those fuckers could vacuum up the 18 b gallons to make it appear like it never happened, they would in an instant.

Human rights abuses – we taking this out based on Daria's ICJ letter, someone is drafting release. Sent to Lehane, Kohn, Amnesty International – no response. Sent to shareholders, no response. Does anyone hear us? I am truly scared for the first time. I put bolt on my door last night. I jumped with a start when the wind knocked my balcony door against the railing. I want to talk to Hotel Quito security. I remember Will Harrell story about people being set up in Hotel Quito on drug charges and then spending years in prison with no trial, in utter hell. I keep thinking I am going to go into court on March 9 and never come out, becoming one of those people. I keep wondering if should prevail on Barack, but I don't want to bug him. I think I should, however.

Day of incredible meetings. Started with judge in HAVOC inspection case. Went to busy Quito court. APV kisses everyone, everyone recognizes him. Walk in no security down long hall filled with small judge's off. Go in office of Gonzalez – took him by surprise. APV stood up, I sat down in chair directly in front of him where he could smell my breath. He looked old, weak, nervous, elegantly dressed. APV explained legal arguments, then I came in with the emotion, explaining history of case, that Texaco is trying to corrupt it. Very effective: talk about corruption, talk about how to try use innocent and good people as vehicles for their own corruption, without accusing the people directly, even though they might be corrupt. I think the issue of corruption with this guy was institutional and personal weakness, not necessarily that he had been paid, but again, this is that unknown factor.

Met with Paco Velasco. He had his police outside protecting him, which again made me raise the issue with Luis, who said he believes the police are a "molestia" more than anything. I want the cop with his truck in front of the office. Paco seemed bored, but we got commitment to cover the San Carlos inspection live and on the morning show from Coca. Could be huge, but we need to produce for him and I have so little confidence in our communications team right now.

Lupita is an awesome person but so out of her league, like everybody else in Ecuador who does communications. They just don't get it. They don't know how to write a press release. She spent an hour on the HAVOC release but it was not what we wanted at all, a total waste, so I had to re-write it. We haven't kept up at all with the news – we haven't even put out the military report on the Guanta inspection which was a disaster for them. We put a great release out yesterday about how their lab is not credentialed. Champagne to Callejas, the idiots don't put the card in an envelope, Ben delivers it, and of course he gets kicked out by them and it backfires. Like Leila's email to Russell, how can people lack such basic common sense? Lupita can't remember shit I tell her for five minutes, like drop off a press boletin at the hotel so I can take it to the judge.

WSJ (Paul Davies and John Wilke seem to have gone cold. Unbelievable, how Davies was so jacked on phone, talked to him for 40 minutes at Blue Smoke last week on my last day (Thursday), sent him all sorts of shit, and he never called me back. Still working on Forero. I know CVX is working furiously to kill all these stories.

Had lunch with Pablo and Luis. They expressed some concern about APV not following thru with stuff, had exhortos for four months. APV has great ideas, no time for follow thru. With papers for HAVOC judge he said Julio was doing, and when I got to office Julio was not doing. He forgets, he is so busy. We discussed options, including reducing pay. Looking for new lawyer, Jaramillo rec'd this man but then I find out he had rep'd Kimerling. Meeting with Crespo today. I love Pablo, his clarity, emotional consistency, and sense of humor. He is getting passport to come to my wedding, and Mauricio is helping him.

Never been so busy. Worked yesterday from 5 a.m. to midnight straight thru with meetings, except for a run in the morning. Asked Juan in pool to write down number for the two men. Waking up one hour before dawn, my mind about to burst, writing three pages of ideas on little Hotel Quito stationery. Need assistant here and in US.

After lunch, went to office and had meeting with tech team. Laid out all these little incidents of corruption that I did not know about, which we need to get into Aaron's FCPA memo and which again wake me up to this sad and disturbing reality, and which simultaneously quita el animo and motivate the hell out of me. Writing memos – Olgita in the library, and pages ripped out of newspapers, not able to scan the thesis reports, the box of key documents about oil spills missing in Lago after Luis and Maria Bellen had gone there. This team has been so neglected, I don't think I have read one of their reports for months. They complain about a lack of support from the lawyers, and I totally agree with me, I am sure the other side is right there with each line and we just quickly skim and throw back arguments. Pablo said they blame everything on the lawyers.

Beaurocracy: the agenda that Fuasto made up. Starts with "saludo" de Donziger, then "saludo" de Yanza, then "verification of quorum" for both lawyers and tech team, then nomination of secretary ad hoc who will write down the formal resolutions proposed and passed.

Went with Grandes. God what a lying fucking freak. Talked about his pedido at HAVOC which came right out of T's playbook. First thought he was paid, but now I believe he is just going with the power flow like so many other Ecuadorians. Said he has had no contact with neither Camino nor Chevron, but these coincidences are just too strong – I believe Texaco's planning meeting over the holidays has led to a whole host of changes, and then are turning corrupt. He just repeated their fucking questions and sent it to HAVOC because he knows we hate him and in the long run his work is with the oil companies. He is snarling little shit and I felt like jumping across the table and beating the shit out of him. Pablo was great, he kept saying how he was falling into Texaco's trap without realizing it. I think the meeting had no effect.

Then had legal meeting. I laid out my tri-partite anti corruption plan about the peritos dirimentes, ending the inspections, and attacking Callejas personally. Pablo took me on, but I gained his support. The plan to get the "loco" (APV) to cry fraud at every oppty in San Carlos was accepted. Now I just have to be sure it happens. Talked a lot about Camino lawsuit. Lot of work to do with Joe, I don't trust APV with his scattered, last-minute approach so I am going to try to take this matter into my own hands. I don't think I can ask MM to be a witness. Just not fair to him and how he has constructed his career. Then met Weilbauer – the most elegant, nice rich man ever. Old but hasn't slowed down at all, still major leader, called that doctor who we are meeting Friday to see about coming to San Carlos as a witness.

Dinner with Raul Herrera, his associate Manuel, and this Argentine who reps Phillip Morris in Quito at SanTelmo. Culture: how owner told him he knows me to make me look good in front of my guests, how sent over free cocktail shrimp, to try to make me look good!!! And I had never met this guy or talked to him before!!! Love that shit. Raul was slobbering about the FCPA memo being put out by the government, we definitely have to move in that direction. We are essentially doing a good portion of his work – the fraud issue and memo by me, the nullification of the contract memo by Julio (which I forgot to bring up – how much more things will I forget because my head is so crammed?), the FCPA memo by Aaron, the FCPA investigation which they will do and I am totally excited about. I love Raul, big hug, this guy could be a good friend. He talked about Evo's inauguration and meeting Tom Hayden. Breakthrough – their contacts with Chavez, work directly with his AG, when Pat Robertson said that bullshit about having him killed, they were down there and worked out that argument for extradition of Robertson by the Venezuelan government. I said, "You know the best way to get Chevron off the back of your client? Chavez." Their jaws dropped – they know it as well, I said let's get a confidential meeting in Caracas with his people and see what the possibilities are. I used to think just Chavez raising the issue with Chevron would make the difference, but I no longer think that now that I see how Chevron is reacting. Talked about bitch US ambassador, who told him at a lunch meeting not to let the Texaco case "escalate" – I told Raul to get that meeting with the embassy, take it, it would really help for them to hear another pt of view. Manuel told me about his Guatemala case. These guys do great work. About resistance in his firm to taking this case. Meeting again the next day, wants to keep distance but we can really make this happen. Said his client not that interested in discovery – I need to move them on this.

Called Laura at night, she said she was worried for me. I love her for that.

Feb 20 -- Havoc controversy today. Incredible. Last Friday Tex showed up with Quito judge and press, not let in. They are so sucio. Talked to Fausto Moreano today, I felt like Mafioso. When left I said to Luis, I hate it but I love it, fighting this monster. Fausto was clearly shaken, and I told him he had no moral or legal obligation to continue working with us, but that now he had no choice because they would attack the lab no matter what to get rid of our evidence. I felt like a Mafiosa, saying once he was in he couldn't get out. Then met with ?, head of accrediting organization, she reassured us, made me feel like there are good, honest beauracrats in Ecuador. IN the same large gov building where met Chiriboga. Will meet judge tomorrow.

Alejandro – incredible in this situation. Breaks it down immediately into a three-pronged strategy. God I don't know what we would do without him. The comparison with Alberto the “giant” is just incredible. Alberto simply did not know how to litigate this case. Another mistake: he turned in our inspection request 10 minutes after Texaco did, which means they go first in inspections we share. This is going to hurt us in San Carlos.

Dave Russell prepare new report problem. See his letter.

Cristobal fired last Friday. Such a non-event at this point.

Chess game with Texaco. Notice change in strategy with last two attacking releases. Pablo email today saying we have to attack, not to get diverted. I am realizing how Pablo has a very intelligent long view of things. He recognizes there attacking is a sign of desperation and weakness. What demoralizes us is when we are not on the attack; we get energy from being on the attack.

Always something – Manuel told me the Proc had not paid Winston yet b/c the Finance Minister quit the day before he was supposed to sign the check. He was checking with Esperanza.

Luis and I went on radio ? with b'ful Colombian woman as host. Luis questioned the oil industry, and I got him off of it. God he has improved since the beginning; now we just wing interviews, hitting on our nationalist themes.

I am totally slammed with work. My lists are getting longer. One I made last night when I came home late was a full legal page.

Talked to AW today on conference call. They took Russell doc off website. ICJ ltr – under stress, my voice cracked a bit. Talked thru the Russell thing, the Penafiel document, etc.

Did press release tonite about Texaco not having its lab certified – I loved writing the release, and I hate that I had to write it b/c Lupita's draft was terrible. We are sending it out at 5 am tomorrow.

So excited about the FCPA thing Aaron prepared. We must figure out how to do it.

Feb 14 – Talked to APV this am from his house in near frustration. Read his Sacha 65 observation last night, and it seems that no matter what we say and do, no matter how strong our arguments, we are going to be fucked because the structure of the court is so fucked up. He said we need to get rid of the judge, and that MP is going to work on it. I feel like this case will last 20 more years or longer, I just feel it, they have the power and they are going to exercise it.

Dave Russell materialized last night saying he disavowed his report. OK, figures. Question – did Chevron get to him?

Met with Atossa all day. Very positive, I accepted her limitations. Real breakthrough. We worked on the SEC ltr. Talked to Joe, he was very supportive.

Feb 12 -- This has grown so big you simply can't control anything. Use Julio's meetings with AG as example. I think of this every minute of every day; fell asleep during Joe's movie last night. Don't want to stay with Laura, don't want to be disconnected from being connected.

Feb 10 – Many things happening – fabulous, tough week.

Today, talked by speaker phone to Lago to AP, PF, LY. Key things happened: CB fired; PF named Proc Com del caso; judge sets new dates starting March 8 for San Carlos, and 6 inspections. Agree put out release taking on court on Monday. They are buying into idea we must take on the court. Tex is influencing the court. Pablo told me the judge is womanizer, drinker, and vago – just the perfect psychological profile for blackmail and corruption. Tex must be loving it.

Met ABC reporter in Law and Justice unit last night, Sylvie Rottman. Her questions were so idiotic – they don't want to talk to lawyers. Fuck off then.

Hitting stride with Lehane. Turned around stories in Oil Daily, BN America this week. Set up Wilke for new SEC ltr AW will send. Fortune mag, he is coming in March. Announce Lehane and Fabiani.

AW retreat this week. Idiots. Leila goes to hot springs while letter from SEC waiting in office, everybody took the day off.

DONZ00023089

Pages 21-22 of 52

Talked to AW today on conference call. They took Russell doc off website. ICJ ltr – under stress, my voice cracked a bit. Talked thru the Russell thing, the Penafiel document, etc.

Did press release tonite about Texaco not having its lab certified – I loved writing the release, and I hate that I had to write it b/c Lupita's draft was terrible. We are sending it out at 5 am tomorrow.

So excited about the FCPA thing Aaron prepared. We must figure out how to do it.

Feb 14 – Talked to APV this am from his house in near frustration. Read his Sacha 65 observation last night, and it seems that no matter what we say and do, no matter how strong our arguments, we are going to be fucked because the structure of the court is so fucked up. He said we need to get rid of the judge, and that MP is going to work on it. I feel like this case will last 20 more years or longer, I just feel it, they have the power and they are going to exercise it.

Dave Russell materialized last night saying he disavowed his report. OK, figures. Question – did Chevron get to him?

Met with Atossa all day. Very positive, I accepted her limitations. Real breakthrough. We worked on the SEC ltr. Talked to Joe, he was very supportive.

Feb 12 -- This has grown so big you simply can't control anything. Use Julio's meetings with AG as example. I think of this every minute of every day; fell asleep during Joe's movie last night. Don't want to stay with Laura, don't want to be disconnected from being connected.

Feb 10 – Many things happening – fabulous, tough week.

Today, talked by speaker phone to Lago to AP, PF, LY. Key things happened: CB fired; PF named Proc Com del caso; judge sets new dates starting March 8 for San Carlos, and 6 inspections. Agree put out release taking on court on Monday. They are buying into idea we must take on the court. Tex is influencing the court. Pablo told me the judge is womanizer, drinker, and vago – just the perfect psychological profile for blackmail and corruption. Tex must be loving it.

Met ABC reporter in Law and Justice unit last night, Sylvie Rottman. Her questions were so idiotic – they don't want to talk to lawyers. Fuck off then.

Hitting stride with Lehane. Turned around stories in Oil Daily, BN America this week. Set up Wilke for new SEC ltr AW will send. Fortune mag, he is coming in March. Announce Lehane and Fabiani.

AW retreat this week. Idiots. Leila goes to hot springs while letter from SEC waiting in office, everybody took the day off.